

EA



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,949	10/31/2003	Martha Thrower	98-1608	5973

40158 7590 07/07/2005

LEONARD & PROEHL, PROF. L.L.C.
3500 SOUTH FIRST AVENUE CIRCLE
SUITE 250
SIOUX FALLS, SD 57105

EXAMINER

WILKENS, JANET MARIE

ART UNIT PAPER NUMBER

3637

DATE MAILED: 07/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/700,949	THROWER, MARTHA	
	Examiner	Art Unit	
	Janet M. Wilkens	3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 21 March 2005.

2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-11 is/are pending in the application.

 4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1-11 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

 a) ☐ All b) ☐ Some * c) ☐ None of:

 1. ☐ Certified copies of the priority documents have been received.

 2. ☐ Certified copies of the priority documents have been received in Application No. _____.

 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson in view of Shipstead and Bugge. Anderson teaches a foot mobility aid (Fig. 1) comprising: an elongated flexible strap (1) having a first end (5) folded back over itself to form a foot loop, a buckle (11) to help keep the loop in place and a handle (4) having a rear portion extended perpendicular from the front part of the strap and located at a second end thereof. For claim 1, Anderson fails to teach that the loop portion has a pad removably mounted thereto. Shipstead teaches a foot pad (8) for use with a foot strap/loop. The pad being removably mounted on the strap/loop (Note: no attachment means need with this limitation). It would have been obvious to one having ordinary skill in the art at the time of the invention to add a foot pad, such as the pad taught by Shipstead, in the loop portion of the strap of Anderson, to provide additional foot support to the bottom of a foot inserted inside the loop portion. Also for claim 1, Anderson fails to teach that the strap includes adjustment means for adjusting the circumference of the loop. Bugge teaches a strap/loop including a buckle type adjustment means (Fig. 3; also for claims 6, 7 and 11). The buckle (11) is attached to an interior portion of the loop (9a,9b,12) and the end of the loop (15) includes slots for insertion into the buckle portion. It would have been obvious to one having ordinary skill

in the art at the time of the invention to modify the aid of Anderson by using an alternate attachment means thereon, i.e. using the adjustable means of Bugge instead of the means presently taught, to provide a more custom loop on the aid, one that adjusts to various sized casts, etc.

The strap of Anderson having a length and width; however, the exact dimensions are not disclosed for claims 3 and 4. Never-the-less, it would have been obvious to one having ordinary skill in the art at the time of the invention to make the strap of Anderson any of a number of dimensions, including with a length between two to six feet and width between half an inch and three inches, depending on the desired need of the person constructing the strap, e.g. depending on size of person to be using the strap, etc.

For claims 6 and 7, Anderson in view of Shipstead fails to teach that the loop portion has a pad detachably attached thereto via hook and loop fasteners. The examiner takes Official notice that hook and loop fasteners are well known in the art. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to connect the pad to the loop portion via hook and loop fasteners, since these fasteners are well known in the art for temporarily but securely attaching members together.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson in view of Shipstead, Bugge and Mertz. Anderson teaches a foot mobility aid (Fig. 1) comprising: an elongated flexible strap (1) having a first end (5) folded back over itself to form a foot loop, a buckle (11) to help keep the loop in place and a handle

Art Unit: 3637

(4) having a rear portion extended perpendicular from the front part of the strap and located at a second end thereof. First, Anderson fails to teach that the loop portion has a pad detachably attached thereto via hook and loop fasteners. Shipstead teaches a foot pad (8) for use with a foot strap/loop. It would have been obvious to one having ordinary skill in the art at the time of the invention to add a foot pad, such as the pad taught by Shipstead, in the loop portion of the strap of Anderson, to provide additional foot support to the bottom of a foot inserted inside the loop portion. Then, it would have been obvious to one having ordinary skill in the art at the time of the invention to connect the pad to the loop portion via hook and loop fasteners, since these fasteners are well known in the art for temporarily but securely attaching members together. Second, the strap of Anderson obviously would have a length and width; however, the exact dimensions are not disclosed. Never-the-less, it would have been obvious to one having ordinary skill in the art at the time of the invention to make the strap of Anderson any of a number of dimensions, including with a length between two to six feet and width between half an inch and three inches, depending on the desired need of the person constructing the strap, e.g. depending on size of person to be using the strap, etc. Third, Anderson fails to teach a handle with finger grooves. Mertz teach a handle (10) with finger grooves. It would have been obvious to one having ordinary skill in the art at the time of the invention to add a rigid handle, such as the handle taught by Mertz, at the top portion of the strap of Anderson (the top of the strap would be looped inside and around the vertical cylinder portion), to provide the more sturdy gripping means for the user. Fourth, Anderson fails to teach that the strap includes adjustment means for

adjusting the circumference of the loop. Bugge teaches a strap/loop including a buckle type adjustment means (Fig. 3). The buckle (11) is attached to an interior portion of the loop (9a,9b,12) and the end of the loop (15) includes slots for insertion into the buckle portion. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the aid of Anderson by using an alternate attachment means thereon, i.e. using the adjustable means of Bugge instead of the means presently taught, to provide a more custom loop on the aid, one that adjusts to various sized casts, etc.

Response to Arguments

Applicant's arguments filed March 21, 2005 have been fully considered but they are not persuasive.

Addressing the argument concerning the removable pad: contrary to what is stated in the arguments, the examiner contends that for the pad of Shipstead to be removable mounted on the strap/loop of Anderson no attachment means are necessary. The pad could simply be placed in the loop between a foot and the loop and still meet the "removably mounted" limitation.

As for the adjustment means, this new limitation has necessitated the new rejection of Anderson in view of Bugge (see 103 rejection above). The buckle of Bugge simply being an alternate type of attachment means; one that provide an adjustability advantage.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

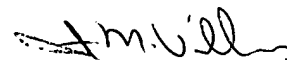
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (571) 272-6869. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3637

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wilkens
July 7, 2005


JANET M. WILKENS
PRIMARY EXAMINER
Art Unit 3637